

**FINAL REPORT
OF THE
WATER RESOURCES
STUDY COMMITTEE**



**Indiana Legislative Services Agency
200 W. Washington St., Suite 301
Indianapolis, Indiana 46204-2789**

November 2013

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Water Resources Study Committee

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**Jessica Harmon, Fiscal Analyst
Craig Mortell, Attorney**

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FINAL REPORT

Water Resources Study Committee

I. STATUTORY DIRECTIVE

The Indiana General Assembly enacted legislation (IC 2-5-25-5) providing that the Water Resources Study Committee shall study and may make recommendations concerning all matters relating to the surface and ground water resources of Indiana, including the following:

- (1) The usage, quality, and quantity of water resources.
- (2) Issues concerning diffused surface water, the common enemy doctrine of law, and runoff.

The Legislative Council did not assign topics to the 2013 Water Resources Study Committee.

II. SUMMARY OF WORK PROGRAM

The Committee met twice during the 2013 interim. At the first meeting, held on August 19, 2013, the Committee discussed:

- Indiana's current water status.
- Data collected by the U.S. Geological Survey.
- Climate and Indiana's water resources.
- Indiana Chamber of Commerce's Vision 2025 and the Chamber Foundation's proposed water study.
- State agencies overseeing aspects of Indiana's water resources, including the Indiana Utility Regulatory Commission (IURC), the Indiana Department of Environmental Management (IDEM), the Indiana Department of Natural Resources (DNR), the Indiana State Department of Agriculture (ISDA), and the Indiana State Department of Health (ISDH).

At the second meeting, held on October 23, 2013, the Committee discussed:

- Current and potential impact of water on Indiana's economy.
- Indiana statutes related to water resources.
- Water and the agricultural industry.
- Water rights and regulation in other states.
- Indiana Chamber of Commerce's Vision 2025 and the Indiana Chamber Foundation's water study.
- Recommendations and the final report.

III. SUMMARY OF TESTIMONY

Indiana's Current Water Status

Dr. Jack Wittman, Principal Hydrogeologist for INTERA Inc., discussed Indiana's current water status by addressing the varying needs for water in Indiana by sector, as well as the availability of ground water and surface water in Indiana. Dr. Wittman also elaborated on the relationship between growth and the availability of water resources and encouraged regional planning to handle the risk of shortages.

Data Collected by the U.S. Geological Survey (USGS)

Dr. William Guertal, Director, Indiana-Kentucky Water Science Centers, provided information about the various data collected by the USGS and the USGS monitoring of surface water, ground water, and water quality. Dr. Guertal explained the different uses for the data collected from surface water stations and ground water stations, including drought monitoring, determining water availability and supply, and flood warnings and forecasts.

Climate

Dr. Dev Niyogi, Indiana State Climatologist, discussed the historic drought of 2012 and provided a comparison of 2012 and 2013 temperatures and precipitation. He explained the factors that are included in long-range forecasts, including the jet stream, globally connected weather patterns, and climate variability. Dr. Niyogi proposed that there is a likelihood of more ground water irrigation systems over the next decade, and there is a need to consider a new way of viewing urban areas and droughts.

Water's Impact on Indiana's Economy

Eric Doden, President, Indiana Economic Development Corporation, explained how water is an important part of economic development in the state, and although there is no comprehensive water strategy for the state yet, the development of a plan could be a significant advantage for Indiana. He discussed the challenges that central and southern Indiana face with population growth and more limited water availability compared to northern Indiana. He emphasized the importance of a comprehensive state plan for water resources because of the many state and local entities involved in the issue. Mr. Doden proposed that the development of a comprehensive state plan for water resources could be a significant advantage for Indiana in terms of economic development.

Water and the Agricultural Industry

Justin Schneider, Senior Policy Advisor and Counsel, Indiana Farm Bureau, explained the importance of water resources to livestock and crops, and the importance of agriculture to rural communities. He shared that the number of registered irrigation facilities has almost doubled since 1985, and he demonstrated the increase in irrigation

ground and surface water withdrawals in 2012 due to drought. Mr. Schneider also provided the surface and ground water withdrawals for 2012 by water use (i.e., energy production, industry, public supply, rural use, irrigation, and miscellaneous), and shared that energy production was the largest use for total water withdrawals in 2012.

Review of Indiana Statutes Related to Water Resources

Craig Mortell, Staff Attorney, Legislative Services Agency, informed the committee that there are more than 200 chapters and individual sections that are related to water resources. He explained that the subjects addressed in the sections vary greatly and include storm water management, wetlands, water pollution control, water rights, flood control, and others. Mr. Mortell also discussed the history of the Water Shortage Plan, the Water Shortage Task Force, and the Water Resources Task Force.

Water Rights and Regulation in Other States

Justin Schneider provided results from a review of other states' laws and regulations performed by a law student for the Indiana Farm Bureau. He explained the four main common law approaches, and he elaborated on the statutory regulated riparian systems used by other states. The regulated riparian systems include entire state approaches, critical areas approaches, and management district approaches. Mr. Schneider also explained historical use, or "grandfather" clauses used by states regulating water resources.

State Agencies Overseeing Aspects of Indiana's Water Resources

- **Indiana Utility Regulatory Commission**

Carolene Mays, Commissioner of the IURC, discussed the IURC's role in relation to Indiana's water resources through the regulation of water and wastewater utilities. Commissioner Mays also discussed the data gathered from water utilities required by SEA 132-2012, and the general findings and research conducted by the IURC resulting from this legislation. Commissioner Mays reported that very little research has been conducted on the nexus between water and economic development, and that better coordination between agencies is needed because several state agencies have different responsibilities relating to water.

- **Indiana Department of Environmental Management**

Thomas Easterly, IDEM Commissioner, discussed IDEM's role relating to water supply authority, including the Drinking Water Program. Commissioner Easterly explained the different types of public water systems and the IDEM programs that impact water quantity.

- **Indiana Department of Natural Resources**

Mark Basch, Section Head, Water Rights/Use at DNR, discussed the water resource availability and management programs in Indiana. Mr. Basch provided information about the laws governing significant water withdrawal facilities

(SWWF), the total annual withdrawals of surface water and ground water from 1985-2012, and the total number of registered SWWFs during 2013. Mr. Basch also discussed the Water Shortage Plan under DNR as well as Indiana's implementation of the Great Lakes Compact.

- **Indiana State Department of Agriculture**

Jordan Seger, Director of Soil Conservation for the ISDA, discussed ISDA's administration of the Clean Water Indiana Program, and ISDA's nonregulatory functions with regard to water resources.

- **Indiana State Department of Health**

Mike Mettler, Director of Environmental Public Health for the ISDH, discussed the ISDH's Onsite Sewage Systems Program, water fluoridation inspections, and the ISDH's assistance with private drinking water wells.

Indiana Chamber of Commerce's Vision 2025 and the Indiana Chamber Foundation's Water Study

Vince Griffin, Vice President of Environmental and Energy Policy for the Indiana Chamber of Commerce, discussed the importance of water to the manufacturing and agricultural industries. He discussed the creation of a system to address potential water shortages like the Texas system. He outlined the Indiana Chamber Vision 2025 and its recommendations concerning water resources. Mr. Griffin shared that the Indiana Chamber Foundation's water study should be completed before the next interim study committee period.

Dr. Jack Wittman discussed the Indiana Utility Regulatory Commission's Water Utility Resource Report and its recommendations. He informed the committee that other states, including Connecticut and Minnesota, are planning and studying how to deal with their water resources issues. He explained that the Indiana Chamber Foundation's water study will look at projecting future demand, provide funding alternatives, and provide recommendations. While the water study will not be a comprehensive plan itself, Dr. Wittman shared that the water study will be a description of how to proceed and will answer the main questions needed to be able to form a plan.

IV. COMMITTEE FINDINGS AND RECOMMENDATIONS

The Committee made the following recommendations:

1. Require the IURC, beginning with its 2014 Water Resource Report, to include in their report a full list of all utilities who did not fully comply with the data collection request.
2. Ask the IURC to make reasonable efforts to work with non-complying utilities, including coordination with industry stakeholders, to provide adequate communication and education especially targeting small systems. The IURC should develop a plan for non-complying utilities in advance of their data

collection for the 2014 report.

3. Require the IURC to include in future reports:

- (A) A summary of their efforts to work with all utilities, especially small systems with limited resources, regarding SEA 132 compliance;
- (B) Recommendations regarding what assistance or training small systems need in order to make compliance easier; and
- (C) Recommendations that describe what resources, if any, the legislature could provide to assist the IURC or responding utilities to ensure IC 8-1-30.5 compliance.

4. Formally request the Executive Branch to initiate efforts that would result in improved agency coordination and collaboration on water resource issues. At minimum, this should involve the IURC, IDEM, DNR, and IEDC.

5. During the summer of 2014, we recommend that the Legislative Council convene a joint task force on water resources made up of members from the Water Resources Study Committee and the Regulatory Flexibility Committee. This task force should have the following assignments:

- (A) Hear from the IURC regarding their findings in the 2014 SEA 132 report to the legislature;
- (B) Receive testimony on how the availability of water resources impacts state and regional economic development decisions;
- (C) Receive testimony discussing ways state government agencies can better coordinate activities that relate to managing water resources;
- (D) Receive testimony related to how state and local governments can better coordinate water resource management activities;
- (E) Receive testimony regarding the unique water challenges facing rural Indiana generally and the agricultural community specifically. Issues worthy of discussion should include aquifer withdrawals, surface water concerns, and inter-basin transfers;
- (F) Receive testimony that evaluates the recommendations set forth by the IURC in their 2013 SEA 132 report as well as any additional recommendations; and
- (G) Receive testimony on the key elements that a state water plan should contain.

6. The committee recommends that after the water resource task force, described in #5, completes their work during the summer of 2014, a recommendation shall be submitted to the Legislative Council for evaluation regarding the need for a statewide water plan and what, if any, legislation is required. If legislation is recommended, a comprehensive proposal should be submitted to the 2015 General Assembly.

The final report was approved unanimously by a roll call vote.

WITNESS LIST

Mark Basch, Section Head, Water Rights/Use, Indiana Department of Natural Resources.

Eric Doden, President, Indiana Economic Development Corporation.

Commissioner Thomas Easterly, Indiana Department of Environmental Management.

Vince Griffin, Vice President, Environmental and Energy Policy, Indiana Chamber of Commerce.

Dr. William Guertal, Director, Indiana-Kentucky Water Science Centers.

Commissioner Carolene Mays, Indiana Utility Regulatory Commission.

Mike Mettler, Director of Environmental Public Health, Indiana State Department of Health.

Craig Mortell, Staff Attorney, Legislative Services Agency.

Dr. Dev Niyogi, Indiana State Climatologist, Purdue University.

Justin Schneider, Senior Policy Advisor and Counsel, Indiana Farm Bureau, Inc.

Jordan Seger, Director of Soil Conservation, Indiana State Department of Agriculture.

Dr. Jack Wittman, Principal Hydrogeologist, INTERA Incorporated.